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In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1024

CALIFORNIA NEWSPAPERS, INC., d/b/a
SAN RAFAEL INDEPENDENT JOURNAL,
Petitioner,

vs.

SAN FRANCISCO TYPOGRAPHICAL UNION, No. 21,
INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO,
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

Memorandum of Respondent

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QUESTIONS PRESENTED

1. Whether a labor organization violates Section 8(b)(1)(B) of the National Labor Relations Act by imposing union discipline against a supervisory employee who holds voluntary union membership for working behind the union's picket line during a lawful primary strike.

2. Whether, in the event the first question is answered affirmatively, the National Labor Relations Board exceeds its remedial authority by ordering the union to reinstate such a supervisor into union membership.

STATEMENT[1]

The petition correctly states that the question it presents is before the Court upon petitions for writ of certiorari in Nos. 73-549, 73-556, 73-795, and 73-887. As the petitions in these cases show, there is a conflict among the circuits on the principal question presented. If the petitions in the foregoing cases are denied, a similar disposition should be made of the petition in this case. If the Court grants a hearing on the merits of the question presented, it is respondent's position that it would be appropriate to hold the petition in this case until final determination of that question, and thereafter to issue the decision on the present petition in the light of that determination.

January, 1974.

Respectfully submitted,

BRUNDAGE, NEYHART,
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1. The Statement of the Case contained in the petition adequately describes the facts and proceedings below for present purposes, with the following exceptions:

(1) It is not correct that Gordon Dixon was required to be a member of respondent (Pet. pp. 3-4). Dixon was subject to a compulsory membership clause in a contract which expired by its terms on November 2, 1968, more than a year before the events in this case (Pet. App. p. 13). The Board made no finding as to whether the contract continued in effect following its expiration date (*ibid.*).

(2) The petition mistakenly states that the strike in this case began on January 17, 1970 (Pet. p. 4). It began on January 7, 1970 (Pet. App. pp. 13, 41).

(3) The petition makes factual assertions as to the discipline which was imposed against Gordon Dixon (Pet. p. 4, n. 2). As noted by the Administrative Law Judge (Pet. Appx. p. 16, n. 8), the record does not contain evidence in this respect, the discipline having been imposed after the close of the hearing.